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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,346	07/18/2005	Anthony Spencer	0120-031	4830
42015 7590 08/05/2009 POTOMAC PATENT GROUP PLLC P. O. BOX 270 FREDERICKSBURG, VA 22404				
EXAMINER				
CEHC, KENAN				
ART UNIT		PAPER NUMBER		
2416				
NOTIFICATION DATE		DELIVERY MODE		
08/05/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

tammy@ppglaw.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/534,346

Applicant(s)

SPENCER, ANTHONY

Examiner

KENAN CEHIC

Art Unit

2416

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/KWANG B. YAO/
Supervisory Patent Examiner, Art Unit 2416

Continuation of 3. NOTE: The claims dated 12/11/2008 present limitations where packets are output corresponding to packet records being output in a non-specific way, wherein newly amended claims (07/17/2009) present limitations where packets are output in accordance with the exit order of the corresponding packets records in the queue. The scope of the limitations has been changed, since the outputting of packets is specifically based on the exit order of the packets record as opposed to the previously non-specific way. Furthermore, it appears that the specification adequately supports the newly claimed amendments

Continuation of 11, does NOT place the application in condition for allowance because: The applicant, on pages 15 through 20, thoroughly describes the workings of Sindhu's system, summarizes the keypoints of applicant's invention and further compares and contrasts the advantages / disadvantages between those two system. On page 20 1st paragraph, the applicant concludes that "this would not have motivated such a person to have reached Applicant's claim 1 combination. It is not clear what the applicant exact arguments are, since no specific claim limitations, which are allegedly not meet, are presented. Further, it is not clear if the applicant is trying to challenge the motivation for combining Sindhu and Brunhereto. If this is the case, no discussion on Brunhereto is provided nor any reasoning why there is not motivation to combine the teachings of those two.

Lastly, the applicant specifically alleges that Sindhu, does not disclose a queue means that stores and arranges the packet records in the assigned exit order. For support, for that allegation the applicant states that Sindhu discloses packet header queues, where final exit order is yet to be determined following final arbitration. In response to this argument, the examiner points out col 10 lines 10-50, as cited in the last communication. In that description, header queues (104) are described in which packet headers are stored arranged in a exit order of packets. In this description the headers in queues 104 are used to figure out the address in memory 76 for the next cell to be outputted "obtain the address of the next data cell stored in memory...to be transferred"), based on the header that is stored on top of the queue "top of its associated header queue 104...cells can be transferred..."). It is clear from the description that queue (s) 104 have a headers stored in a order (ie. High priority cells headers are placed on top of queue), where according to these queue(s) 104 and their respective order, packets are transmitted. The examiner takes the stance that this corresponds to the argued claimed limitations. .